

REMARKS

The "Notice of Omitted Items" alleges that the present application describes Figures 25-28, but that Figures 25-28 were not included in the papers received by the PTO with the original application papers filed on November 18, 2003.

The parent application of the present application, U.S. Patent Application No. 10/277,746, included Figures 1-28. The present application is a divisional of the parent application. The specification, including the drawings, of the present application were intended to be a duplicate of the original parent application. The transmittal letter of the present application (page 1, last paragraph) stated:

The entire disclosure of the prior parent application, application number 10/227,746, filed October 23, 2003, is considered a part of the disclosure of the accompanying divisional application and is hereby incorporated by reference.

MPEP 201.06(c)(IV) states:

As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

Applicants request entry of the preliminary amendment to add the allegedly missing Figures 23-28. Additionally, as stated in the MPEP, the inclusion of the incorporation by


Response to Notice of Omitted Items and Preliminary Amendment
Application No. 10/714,608

reference of the prior application permits the amendment to include the subject matter in the parent application.

Applicants also submit that the present divisional application, including Figures 23-28, is entitled to the original filing date of November 18, 2003. According, Applicants respectfully request that the present application, including Figures 23-28, be accorded a filing date of November 18, 2003.

Finally, Applicants submit that a petition is not required or necessary for the entry of the present preliminary amendment and for the grant of the filing date of November 18, 2003. However, if the USPTO determined that a fee for a petition is necessary, the USPTO is authorized to charge the fee of \$130.00 to Deposit Account No. 19-4480. A duplicate copy of this paper is attached.

Respectfully submitted,


Peter D. Olexy
Registration No. 24,513

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: October 7, 2004

Response to Notice of Omitted Items and Preliminary Amendment
Application No. 10/714,608

AMENDMENTS TO THE DRAWINGS

Please amend the present application to add the attached two new sheets of drawings,
Figures 25-28 (prior art).

Attachment: Two Sheets, Figures 25-28